

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

RODNEY SIMPSON,

Plaintiff,

Case No. 05-CV-70925-DT

v.

HONORABLE DENISE PAGE HOOD

JAY B. RISING, PATRICIA CARUSO
and SYMTRA FINANCIAL,

Defendants.

**ORDER ACCEPTING REPORT AND RECOMMENDATION
AND
DISMISSING ACTION**

This matter is before the Court on Magistrate Judge Virginia M. Morgan's Report and Recommendation dated July 5, 2005. To date, no Objections to the Report and Recommendation have been filed with the Clerk's Office by Plaintiff, although a Supplemental Brief to the Response to the Motion to Dismiss was filed by Plaintiff on July 11, 2005 (dated July 7, 2005).

The Court has had an opportunity to review the Report and Recommendation and finds that the Magistrate Judge reached the correct conclusion for the proper reasons. The Court agrees with the Magistrate Judge that Plaintiff's Complaint is barred by the *Rooker-Feldman* doctrine, *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923) and *D.C. Court of Appeals v. Feldman*, 460 U.S. 462 (1983). The Court further agrees with the Magistrate Judge that although Plaintiff couched his claims in federal constitutional terms, Plaintiff is seeking a collateral attack on the order entered by the Oakland and Wayne County Circuit Courts. The Court also agrees that because the *Rooker-Feldman* doctrine concerns federal subject matter jurisdiction, the Court may raise this issue *sua*

sponte at any time. Because the Court does not have subject matter jurisdiction over the Complaint, the claims against the remaining Defendants must also be dismissed.

Accordingly,

IT IS ORDERED that the Magistrate Judge's Report and Recommendation dated July 5, 2005 is ACCEPTED and ADOPTED as this Court's findings of fact and conclusions of law.

IT IS FURTHER ORDERED that Defendant Rising's Motion to Dismiss (**Docket No.16, filed May 16, 2005**) is GRANTED.

IT IS FURTHER ORDERED that Plaintiff's Motion for Default Judgment as to Symtra Financial (**Docket No. 23, filed July 11, 2005**) is MOOT.

IT IS FURTHER ORDERED that the Complaint is DISMISSED with prejudice for lack of jurisdiction and the claims against Defendants Jay Rising, Patricia Caruso and Symtra Financial are DISMISSED.

/s/ DENISE PAGE HOOD
DENISE PAGE HOOD
United States District Judge

DATED: August 26, 2005